

Planning Report



Thursday, June 26, 2014

Williams Residence-6290 Belvedere Green Boulevard

Case Summary

Agenda Number	2
Case Number	14-052V
Location	6290 Belvedere Green Boulevard North side of Belvedere Green Boulevard approximately 560 feet west of the Avery Road.
Proposal	To construct a deck and gazebo (sunroom) that encroaches 9.5 feet into the rear yard setback.
Request	Non-use (area) variance to Section 153.053(2)(A) to permit a deck and gazebo that encroaches in the rear yard setback of a property zoned PLR, Planned Low-Density Residential District. Requires review and approval by the Board of Zoning Appeals based on the review criteria of Zoning Code Section 153.231.
Applicants	Jerry and Emily Williams, owners.
Planners	Tammy Noble-Flading, Senior Planner.
Planning Contact	(614) 410-4649 or tflading@dublin.oh.us
Planning Recommendation	Approval Based on Planning's analysis, the request meets the review criteria for a non-use (area) variance, therefore approval is recommended.



 <p>City of Dublin</p>	<p>14-052V Rear Yard Setback Variance Williams Residence 6290 Belvedere Green Blvd</p>	<p>0 150 300 Feet</p> 
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Facts

Site Description	The 0.294 acre site has a single-family residential home, an at-grade patio, and a putting green. The property has a mature row of vegetation to the rear of the property and a twenty-five foot No Build Zone.
Zoning	PLR, Planned Low Density Residential District.
Surrounding Zoning and Uses	The site is surrounded by residential development zoned PLR, Planned Low Density Residential, within the Belvedere Subdivision.
Proposal	The applicants currently have an existing 14' x 27' at-grade paver patio to the rear of the house. This patio encroaches into the rear yard setback, as well as the No Build Zone. The applicants are proposing to replace the paver patio with a 12.5' x 27' deck. The applicants are also proposing a 10' x 20' gazebo that will be situated on top of the deck and not attached to the house. Both structures will encroach the rear yard setback. The deck is the largest of the structures and will encroach 9 ½ feet into the rear yard setback.

Details

Rear Yard Setback

Process	Zoning Code Section 153.231(C)(3) allows the Board of Zoning Appeals to approve requests for non-use (area) variances only in cases where the Board finds there is evidence of a practical difficulty present on the property, limiting conformance to the strict requirements of the Zoning Code. The Board shall make a finding that the required review standards have been appropriately satisfied (refer to the last page of this report for the full wording of the review standards).
Variance Request	The applicants are proposing a 12.5' x 27' deck to the rear of the house that will contain a 10' x 20' gazebo on the top of the deck's surface. The applicants have a 34-foot rear yard setback based on the Belvedere development text. The applicants have four feet of area in which to build, before encroaching this rear yard setback. Their request is to encroach this setback by 9 ½ feet.

Analysis	Rear Yard Setback
<i>ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET</i>	
(1) Special Conditions	<p>Standard Met.</p> <p>The design of the house is a side-loaded garage that results in the house being located 20 feet beyond the required front building line. Based on this location of the house and the narrow dimensions of the home, there is a limited amount of the rear yard space in which to build. These conditions combined create special factors that would prohibit the applicant of constructing any useable outdoor space.</p>
(2) Applicant Action/Inaction	<p>Standard Met.</p> <p>The house was constructed prior to the applicants owning the property. These conditions were not a result of action or inaction of the applicant.</p>
(3) No Substantial Adverse Effect/ Hinder Intent of Regulation	<p>Standard Met.</p> <p>The site has a mature line of vegetation that encompasses twenty feet of the rear yard. This vegetation provides a buffer to the adjacent property owner, therefore, the proposed construction will not adversely impact the neighbors.</p>
<i>AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET</i>	
(1) Special Privileges (2) Recurrent in Nature (3) Delivery of Governmental Services (4) Other Method Available	<p>The following standards have been reviewed with the finding that two standards are met.</p> <p>Standard Met.</p> <p>The applicant is permitted four-feet of buildable area to the rear of the house. This would dramatically limit the type, and size, of outdoor amenities that can be built and continue to meet Code. This would most likely prohibit the applicant from building any useable space in the rear of the property and deprive the applicant a residential features that is commonly enjoyed by other property owners. Therefore, disapproving the variance would deprive the property owner of rights commonly enjoyed by others.</p> <p>Standard Not Met.</p> <p>This type of request is becoming more common yet has not risen to the degree of "recurrent in nature". As a proactive method of addressing the issue, Planning is researching how other communities regulate decks and patios. If modification are made, staff will apprise the Board of such actions.</p> <p>Standard Met.</p> <p>The request would not impact the delivery of governmental services.</p> <p>Standard Not Met.</p> <p>The applicant could modify the proposed deck to meet the existing rear</p>

Analysis	Rear Yard Setback
	yard setback or propose a deck that meets the definition of an “open and uncovered” provision of the Code. This would allow a patio or deck that is up to 8 feet in depth. This would be an alternative solution for the applicant.

Recommendation	Approval
Approval	Based on Planning’s analysis the requested variance meets the review criteria for a non-use (area) variance, therefore approval for the variance is recommended.

NON-USE (AREA) VARIANCES

Section 153.231(H)(1) Variance Procedures

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable development requirements of this Code unreasonable and, therefore, the variance procedure is provided to allow the flexibility necessary to adapt to changed or unusual conditions that meet the standards of review for variances. In granting any variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with the Zoning Code.

Non-Use (Area) Variances. Upon application, the Board of Zoning Appeals shall only approve a request for a non-use variance only in cases where there is evidence of practical difficulty present on the property in the official record of the hearing, and that the findings required in (a) and (b) have been satisfied with respect to the required standards of review (refer to the last page of this Report for the full wording of the review standards):

(a) That all of the following three findings are made:

- (1) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district whereby the literal enforcement of the requirements of this Chapter would involve practical difficulties. Special conditions or circumstances may include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter or amendment; or by reason of exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure; or by reason of the use or development of the property immediately adjoining the property in question.*
- (2) That the variance is not necessitated because of any action or inaction of the applicant.*
- (3) Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this Chapter.*

(b) That at least two of the following four findings are made:

- (1) That a literal interpretation of the provisions of the Zoning Code would not confer on the applicant any special privilege or deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter.*
- (2) The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.*
- (3) The variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage).*
- (4) The practical difficulty could be eliminated by some other method, even if the solution is less convenient or most costly to achieve.*